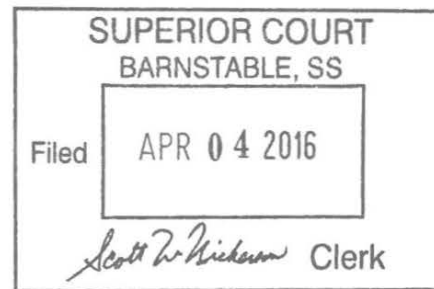


Commonwealth,

v.

Emory G. Sweeney,
Defendant.

DEFENDANT'S VERIFIED MOTION PURSUANT
TO M.G.L.C. 278A, SS 3(b), WITH ATTACHED
AFFIDAVIT, AND EXHIBITS SUPPORTING
FACTUAL INNOCENCE.

Comes now Defendant, after 21 yrs. as an actual
innocent, wrongly imprisoned, directly resulting from
intentional screening of Brady exculpatory scientific evidence,
specifically sought in 1995 by two scientific discovery (P#13,14)
motions, and three motions (P#34,37 & 47) to compel, and hereby
moves this most honorable court to grant expedient relief. In
furtherance hereto, defendant attaches affidavits and exhibits which
unassailably prove that arrest and factual innocence.

1- POTENTIAL OF ANALYSIS TO RESULT IN EVIDENCE
MATERIAL TO NATURAL CAUSE DEATH;

2- DNA TESTING OF:

(i) Barry Hood/Liver, when deceased appeared as a
Healthy 52yr. old;

B- DNA TESTING OF:

(ii) Autolyzed and nonautolyzed liver, when deceased
has only disclosed cause of death is a natural
fatal cardiac arrhythmia;

C- DNA TESTING OF:

(iii) Bedding, Pillow, Clothing for evidence of blood at any
of the alleged 17 superficial injury sites, as only disclosed
evidence prima facie proves inflicted post-mortem, and
undoubtedly evidence of epithelial healing is present;

d- DNA TESTING OF:

(iv) PRIMATIVE MIST INHALER FOUND AT SCENE, NEWLY DISCOVERED CAN BE RESPONSIBLE FOR SUDDEN DEATH;

e- DNA TESTING OF:

(v) TISSUE SLIDES / PARAFFIN BLOCKS, NEWLY DISCOVERED THAT TISSUE SLIDES / PARAFFIN BLOCKS DO NOT MATCH UP;

CULMINATIONS OF ALL DNA TESTING, WILL UNMISTAKENLY SET FORTH PRIMA FAE PROOF THAT O'KEEFE'S DIAGNOSIS OF EXCLUSION, ASPHYXIA DUE TO SMOOTHERING IS TOTALLY FUND, AND NEWLY DISCOVERED SCIENTIFIC EVIDENCE RESULTING IN 2005 COURT ORDER, SUPPORTS DEFENDANT'S FACTUAL INNOCENCE, AND THAT THERE IS NO CRIME, OR ACCERATOR.

2- REASON THE MATERIALS HAS NOT BEEN SUBJECT TO THE REQUESTED ANALYSIS.

f- IN 1995, DEFENDANT THROUGH COUNSEL, PRE-TRIAL FILED TWO SCIENTIFIC PHYSICAL EVIDENCE (P#13), AND SCIENTIFIC WITNESSES BREAR SPECIFIC MOTIONS (P#14);

g- DESPITE THREE MOTIONS TO COMPEL (P#34, 37 & 47) ADA O'KEEFE INTENTIONALLY SECRETED THAT 2005 NEWLY DISCOVERED SCIENTIFIC EXCULPATORY EVIDENCE IN 1995, FORECLOSING DEFENSE COUNSEL'S ABILITY TO SEEK ANALYSIS SOUGHT PURSUANT TO C. 278A, SS 2-12;

h- INASMUCH AS, DEFENDANT'S CASE WAS THE FIRST IN BARNSTABLE COUNTY TO USE DNA, HAD THAT NEWLY DISCOVERED SCIENTIFIC EVIDENCE NOT BEEN SUPPRESSED, IT TOO WOULD HAVE BEEN SUBJECT TO DNA, TO SUPPORT DEFENDANT'S FACTUAL INNOCENCE;

3- DEFENDANT IN 1995 STRONGLY PROTESTED
INNOCENCE EVINCED BY ALLOCATION;

I- UPON GRANTING OF POST-CONVICTION DISCOVERY
OF ALL ANATOMICAL, MATERIAL, PAPERS, AND ALL OTHER
AUTOPSY RELATED INFORMATION IN THE COME BY JUDGE
RICHARD CANNON IN 2005; DEFENDANT ENGAGED THE
FIRST OF FIVE PATHOLOGISTS, WHOSE MICROSCOPIC
EXAMINATION OF TISSUE SLIDES / PARAFFIN BLOCKS,
NEWLY DISCOVERED: BABY HEART / LIVER; AUTOLYZED
/ NOW AUTOLYZED LIVERS; PRIMATE MITOCHONDRIA
CAUSING PREMATURE NATURAL CAUSES DEATH; 17
SUPERFICIAL MINOR CUTS NOT ATTRIBUTABLE TO DEATH;
AND POST-MORTEM CUTS, DEMONSTRATING EPITHELIAL
(REGENERATION) HEALING, THAT COULD NOT BE INFLICTED
AT OR ABOUT TIME OF DEATH, AND AMONG OTHER THINGS,
"1/8 INCH PIECES OF MEAT AND POTATOES" THAT SET FORTH
DEATH WITHIN HOURS OF EATING THE MEAL, SEVERAL
HOURS BEFORE COME ZANE'S 0730 AM MARCH 17,
1995; EACH OF THOSE AFORESAID NEWLY DISCOVERED,
BRADY 1995 SUPPRESSED EXCULPATORY SCIENTIFIC
MATERIALS UNASSAILABLY SUPPORTS DEFENDANT'S
FACTUAL INNOCENCE,

NOT BEEN FOR ADA C'KEEFE'S
INTENTIONALLY SELECTING OF THAT 2005
ONLY DISCLOSED SCIENTIFIC EVIDENCE,
DNA TESTING WOULD HAVE BEEN
UTILIZED TO DEMONSTRATE ELIZABETH
SWELL'S DEATH RESULTED FROM A NATURAL
FATAL CARDIAC ARRHYTHMIA.

LIBERTY RESULTING FROM TUDGE GUNN'S 2005
POST-MORTEM CORNE DISCOVERY ORDER, DEFENDANT
ONLY DISCLOSED SCIENTIFIC EVIDENCE THAT
UNAMBIGUOUSLY ILLUSTRATES THAT ELIZABETH SWELL'S
DEATH WAS DE FACTO, A NATURAL CARDIAC ARRHYTHMIA.

DR. FRIEDLANDER, YOUNG, KESSLER (FORMER CORNE
CHIEF OF STAFF), FETTER (FORMER CORNE PATHOLOGIST), AND
DR. IMHOF WENT THROUGH MICROSCOPIC EXAMINATION,
REASONABLE DEGREE OF MEDICAL CERTAINTY, CONCLUDED
THAT NONE OF THE 1995 AUTOPSY EVIDENCE IS CONSISTENT
WITH SUFFOCATION. EACH OPINES THERE IS NO EVIDENCE
OF TRAUMA AROUND THE TRACHEA TO SUPPORT SUFFOCATION.
EACH FINDS THE MULTIPLE DIFFERENT ERRORS COMPOUNDED
ZAK'S FATAALLY FLAWED AUTOPSY. AND, DR. BADEN
ESPECIALLY FINDS THAT ZAK'S REPORTED FOLLOWING OF
DR. DYNAMIC'S TEXT ON FORENSIC PATHOLOGY, WAS NOT ADVISED
TO. NONE FOUND EVIDENCE TO SUPPORT HEMORRHOIC ASPHYXIA.

Conclusion

&

WHEREFORE, AS A PROSE DEFENDANT, WHO IS FACTUALLY INNOCENT, AND UNLAWFULLY IMPRISONED FOR A NATURAL CAUSE DEATH, HORRISBY MOVES THIS MOST HONORABLE COURT TO FORTHWITH GRANT THAT REQUESTED FORENSIC AND SCIENTIFIC ANALYSIS OUTLINED HEREIN. SO MOVED.

SIGNED, THIS 27TH DAY OF MARCH 2016, DECLARED UNDER PAIN OF PERJURY.

Respectfully Submitted,
by, THE DEFENDANT,



Embrey G. Swartz, PROSE
965 ELM ST.
CONCORD, MA. 01742-2119

PROOF OF SERVICE

I, CERTIFY THAT A TRUE COPY OF THE ATTACHED WAS SERVED ON:

SCOTT COLEMAN, CLERK
BARNSTABLE Sup. Ct.
BOX 425
BARNSTABLE, MA. 02630

ELIZABETH SWARTZ, ADA
CAPE & ISLAND D.A.
BOX 455
BARNSTABLE, MA. 02630

IN ACCORD W/ 103 CMR 481.00 (2d PART).